

### REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

Appreciation is expressed to Examiner Rodriguez for the continued indication that Claims 12 and 13 are allowable and that Claims 10 and 11 would be allowable if rewritten in independent form.

The Examiner's attention is directed to the Information Disclosure Statement filed on August 31, 2005. The Examiner is kindly asked to consider the cited documents and return an initialed and signed copy of form PTO-1449 submitted with that Information Disclosure Statement.

Claim 1 recites a metal spacer made of a metal and interposed between opposed faces of two members having respective bores co-axial with each other and fastened to one another by inserting a fastening member into the bores and tightening the fastening member. The claimed metal spacer comprises a base interposed between the opposed faces of the members and having a through hole co-axial with the bores of the respective members so that the fastening member is inserted through the hole. The metal spacer also comprises a temporarily retaining portion provided on an open edge of the hole of the base for temporarily retaining the overall spacer on one of the members before the members are fastened to each other, with the temporarily retaining portion being inserted into the bore of the one member and caught on a wall defining the bore.

As explained in the prior response, *Soltysik* discloses a screw anchor clip 10 that is held in place in the aperture 12 of a body of material 13 by several locking ears 11 which are interpreted as corresponding to the temporarily retaining portion

recited in Claim 1. The prior response pointed out that the locking ears 11 in *Soltysik* cannot correspond to the temporarily retaining portion recited Claim 1 because the locking ears 11 are not provided on the open edge of the hole of the base.

The comments accompanying the recent Advisory Action express the view that the rejection of independent Claim 1 based on the disclosure in *Soltysik* is proper because the language in Claim 1 can be broadly interpreted to read on the disclosure in *Soltysik*. As understood from the comments, the rejection appears to be based on observation that the wording in Claim 1 does not exclude the possibility that the walls 27, 28 of the clip shown in the *Soltysik* patent form a part of the opening in the base member.

Taking into account this interpretation, Claim 1 is amended here to recite that the through hole is coplanar with the base to thus better define what constitutes the through hole. In addition, Claim 1 is amended to recite that the temporarily retaining portion extends directly from the open edge of the hole of the base in a direction substantially perpendicular to the plane of the base. With these clarifications, the rejection based on *Soltysik* cannot be maintained because the walls 27, 28 do not extend directly from the open edge of the through hole of the base 17 (i.e., a through hole that is coplanar with the base) in a direction substantially perpendicular to the plane of the base.

For at least the reasons discussed above, it is believed that Claim 1, and the various dependent claims, are allowable. Accordingly, withdrawal of the rejection of record and allowance of this application are earnestly solicited.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful

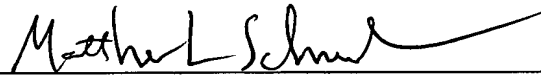
in resolving any remaining issues pertaining to this application, the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

BUCHANAN INGERSOLL PC

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